



State of Connecticut  
HOUSE OF REPRESENTATIVES  
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March 15, 2022

Connecticut General Assembly  
Labor and Public Employees Committee  
165 Capitol Avenue  
Hartford, Connecticut 06106

Re: H.B. No. 5442 AAC Experience Rate

Dear Members of the Labor and Public Employees Committee,

The subject bill is all about unintended consequences and how to fix them. Last year, we passed, and the Governor signed, Public Act 21-5. That bill's purpose was "to provide relief to businesses as a result of Covid-19 related losses." To do this, for any taxable year on or after January 1, 2022, the bill changed an employer's three-year experience period so that it would "be calculated without regard to benefit payments and taxable wages for calendar years 2020 and 2021, when applicable."

The goal of this was to ensure that any Connecticut employer which experienced Covid-related layoffs would not suffer a financial penalty, that is, a *higher benefit cost rate*, due those Covid layoffs. However, the legislation failed to consider the effects that would accrue to an employer which had *no* layoffs during Covid but did in 2019. This is exactly what happened to a family-owned business in my District. For the three years from 2019 through 2021 that employer experienced exactly *one* layoff, in 2019, which was not mitigated in any way by the following *two years of no layoffs*, as it would have been absent Public Act 21-5. Normally, one wouldn't think this would be much of a problem (after all it was only *one* layoff), but the employer's experience rate for the three prior years was 3.3% and now, with just the one year included, showing only a single layoff, the rate has more than doubled to 6.7%.

I support the spirit of H.B. 5442, but this issue does not need study; it needs action. It seems to me that the Department of Labor should be able to run a report and identify employers that saw their experience rates go up as a result of P.A. 21-5 and review their circumstances.

If the purpose of P.A. 21-5 was to ensure that no employer would see its experience rate go up due Covid, principles of fairness dictate that employers with *no* layoffs during the Covid crisis, should not have to pay an artificially higher experience rate for a full year while a study is performed to determine if they are deserving of a refund.

I urge you to amend H.B. 5442 to require that, as quickly as possible, the Department of Labor identify employers caught in this unintended consequence, amend their experience rates, and refund any 2022 overpayments that are appropriate.

Thank you for your consideration,

Brian T. Smith,  
48<sup>th</sup> House District